

1 ARIZONA DEPARTMENT OF WATER RESOURCES

2 BEFORE THE DIRECTOR

3 IN THE MATTER OF THE MODIFICATION  
4 OF CHAPTER 5 OF THE MANAGEMENT  
5 PLAN FOR THE PHOENIX ACTIVE  
6 MANAGEMENT AREA FOR THE THIRD  
MANAGEMENT PERIOD FOR THE  
PURPOSE OF ADDING A MODIFIED NON-  
PER CAPITA CONSERVATION PROGRAM

ORDER OF PROMULGATION

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8 I. INTRODUCTION

9 On December 13, 1999, the director of water resources ("Director") adopted the  
10 management plan for the Phoenix Active Management Area for the third management period  
11 ("Third Management Plan"). At the time the Third Management Plan was adopted, A.R.S. § 45-  
12 566(A)(2) provided that the plan shall include a municipal conservation program that requires  
13 large municipal providers, other than large untreated water providers, to achieve reasonable  
14 reductions in per capita use unless they apply for and are accepted for regulation under the Non-  
15 Per Capita Conservation Program ("NPCCP"). A.R.S. § 45-566.01 provided that the NPCCP  
16 shall require a large municipal provider accepted for regulation under that program to implement  
17 specific conservation measures within its service area and limit its groundwater use to a specified  
18 volume. Chapter 5 of the Third Management Plan contains provisions consistent with these  
19 requirements, including a NPCCP in section 5-104 of the Municipal Conservation Requirements  
20 and Monitoring and Reporting Requirements.

21 Legislation enacted during the 2007 legislative session (S.B. 1557, herein referred to as  
22 the "2007 Legislation") amended A.R.S. § 45-566.01 to provide that the Director shall modify the  
23 NPCCP in the Third Management Plan to eliminate the groundwater use limitation requirement  
24 and to require large municipal providers regulated under the program to implement a public  
25 education program, a metering program and one or more additional water conservation measures  
26 to be selected from a list of measures adopted in the plan. The Director is required to design the

1 modified NPCCP to achieve water use efficiency in the service areas of municipal providers  
2 regulated under the program equivalent to the water use efficiency assumed by the Director in  
3 establishing the per capita conservation requirements for those providers. The 2007 Legislation  
4 requires all large municipal providers that are not designated as having an assured water supply  
5 and that do not qualify as a large untreated water provider to submit a provider profile to the  
6 Director by July 1, 2009 and to be regulated under the modified NPCCP beginning January 1,  
7 2010 or the date the Director approves the provider's provider profile, whichever is later. A large  
8 municipal provider designated as having an assured water supply will not be regulated under the  
9 modified NPCCP unless it elects to be regulated under the program.

## 10 **II. PROPOSED MODIFICATIONS**

11 To comply with the 2007 Legislation, the Director proposes to modify Chapter 5 of the  
12 Third Management Plan in the manner shown in the document attached hereto entitled "Proposed  
13 Modifications to Chapter 5, Municipal Conservation Program, Third Management Plan, Phoenix  
14 Active Management Area, January 2008." The following is a brief description of the proposed  
15 modifications.

16 1. A new section 5-104.01 will be added to the Municipal Conservation  
17 Requirements and Monitoring and Reporting Requirements in Chapter 5. This section contains  
18 the modified NPCCP required by the 2007 Legislation. As required by the 2007 Legislation, all  
19 large municipal providers that are not designated as having an assured water supply and that do  
20 not qualify as a large untreated water provider will be required to submit to the Director a  
21 provider profile by July 1, 2009 and begin complying with the modified NPCCP in section 5-  
22 104.01 beginning January 1, 2010 or the date the Director approves the provider's provider  
23 profile, whichever is later. A large municipal provider designated as having an assured water  
24 supply will continue to be regulated under the conservation program it was regulated under as of  
25 January 1, 2008, unless the provider notifies the Director that it elects to be regulated under the  
26 modified NPCCP and submits a provider profile that is subsequently approved by the Director.

1 Section 5-104.01 sets forth the requirements for submitting a provider profile. A large municipal  
2 provider may agree to be regulated under the modified NPCCP earlier than January 1, 2010 if the  
3 Director approves the provider's profile prior to that date.

4 2. Conforming changes are being made to other sections within Chapter 5 of the Third  
5 Management Plan and to several appendices to Chapter 5.

6 3. In section 5.4.1 of the Third Management Plan, the reference to A.A.C. 15-12-705 is  
7 being changed to A.A.C. R12 -15-722 to reflect a recent amendment to the Department's Assured  
8 and Adequate Water Supply Rules.

9 **III. ORDER OF PROMULGATION**

10 **IT IS HEREBY ORDERED:**

11 1. That the proposed modifications described in Section II above and shown in the  
12 document attached hereto entitled "Proposed Modifications to Chapter 5, Municipal Conservation  
13 Program, Third Management Plan, Phoenix Active Management Area, January 2008," are  
14 promulgated as proposed modifications to the Third Management Plan pursuant to A.R.S. § 45-  
15 572.

16 2. That a public hearing on the proposed modifications shall be held at a location in  
17 the Phoenix Active Management Area. Notice of the public hearing shall be given as provided in  
18 A.R.S. § 45-570.

19 GIVEN under my hand and the Official Seal of the Arizona Department of Water  
20 Resources this 9<sup>th</sup> day of January, 2008.

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23 Herbert R. Guenther  
24 Director  
25 Arizona Department of Water Resources

26 (SEAL)